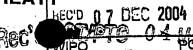
10/526576

PATENT COOPERATION TREATIY







2005

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applic	ant's or ac	ant's file reference	T						
Applicant's or agent's file reference NO 7380MO/PCT		FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)							
International application No. PCT/EP 03/08745		International filing da 07.08.2003	te <i>(day/mon</i> i	th/year)	Priority date (day/mon	th/year)			
C11B	31/10	tent Classification (IPC) or b	oth national classificatio	n and IPC					
Applica NEST	EC S.A	. et al.							
1. 7	This inter Authority	national preliminary exar and is transmitted to the	nination report has be applicant according t	een prepar o Article 36	ed by this Intel 3.	rnational Preliminary E	Examining		
2. 7	This REP	ORT consists of a total o	f 5 sheets, including	this cover	sheet.	•			
	This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).								
т	•	nexes consist of a total of	or or the Administra	auve instru	ctions under th	ne PCT).	·		
3. T	his repor	t contains indications rela	ating to the following	items:					
1	\boxtimes	Basis of the opinion							
11		Priority							
III		Non-establishment of op	pinion with regard to	noveltv. inv	entive sten an	id industrial applicabili	4		
I۷		Lack of unity of inventio	n	,	omire etep un	a maastilai appiicabiii	ty		
V	_	Reasoned statement un citations and explanation	in authoritied ancil al	rith regard tatement	to novelty, inve	entive step or industria	al applicability;		
VI VI	_	Certain documents cited							
VI		Certain defects in the in Certain observations on							
Date of o	uhmissis	of the demand							
Date of S	ubmissior	of the demand		Date of co	mpletion of this	report			
17.03.2004				06.12.20	004				
vame an orelimina	viame and mailing address of the international preliminary examining authority:				Officer		asches Petenten		
European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465				Vernier, Telephone	F No. +49 89 239	99-8646	And the state of t		
					 				

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP 03/08745

I.	Basis	of the	report

1. With regard to the **elements** of the international application (Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)):

	De	escription, Pages								
	1-	18	as originally filed							
	Cl	Claims, Numbers								
	1-	17	as originally filed							
2.	. Wi lan	With regard to the language , all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.								
	Th	These elements were available or furnished to this Authority in the following language: , which is:								
		_								
	the language of publication of the international application (under Rule 48.3(b)).									
			anslation furnished for the purposes of international preliminary							
3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application international preliminary examination was carried out on the basis of the sequence listing:										
			ernational application in written form.							
			ne international application in computer readable form.							
		furnished subsequently to this Authority in computer readable form.								
		The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.								
		The statement that t listing has been furn	he information recorded in computer readable form is identical to the written sequence ished.							
4.	. The amendments have resulted in the cancellation of:									
		the description,	pages:							
		the claims,	Nos.:							
		the drawings,	sheets:							
5.		This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).								
		(Any replacement sh report.)	neet containing such amendments must be referred to under item 1 and annexed to this							
6.	Add	dditional observations, if necessary:								

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP 03/08745

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)

Yes: Claims

No: Claims

1-17

Inventive step (IS)

Yes: Claims

No: Claims

1-17 1-17

Industrial applicability (IA)

Yes: Claims

No: Claims

2. Citations and explanations

see separate sheet

Item V

The following documents are considered:

D1: EP-A-1 239 022 D2: EP-A-1 178 118

2. Article 33(2) PCT

The subject-matter of D2 (see cited passages in the search report) discloses a microbial oil comprising various PUFAs, obtained by a process involving a fermentation and pressing. In particular, pressing at 100-600 bar is disclosed and such pressing can be done on a concentrated (dewatered, thus a "dry state") biomass: see paragraphs 13, 16, 19-20. The obtained oil is used for example in food stuffs, infant formula, nutritional supplements or pharmaceuticals. Therefore, present independant claims do not meet the requirements of novelty.

3. Article 33(3) PCT

Discussion of the question whether the claimed subject-matter involves an inventive step is only of relevance once novelty has been established. However, it presently seems that none of the dependant claims contains subject-matter that would be suitable to render the claims inventive once novelty has been established.

4. Article 33(4) PCT

The subject-matter of present claims 1-17 meet the requirements of Article 33(4) PCT, since it is applicable in the human nutrition industry.

5. Further comments

- a. Contrary to the requirements of Rule 5.1(a)(ii) PCT, document D2 has not been identified in the description and the relevant background art disclosed therein has not been briefly discussed.
- b. The term "dry state" in present claim 1 lacks clarity (Article 6 PCT): it is inevitable that some moisture may remain, and its amount has not been given. This makes comparing with the prior art difficult.
- c. Document D1 could be relevant in assessing novelty in the regional phase in front of

EXAMINATION REPORT - SEPARATE SHEET

the EPO.